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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,504	04/21/2004	David Epstein	23239-558A (ARC-58A)	7640
30623 7590 07/01/2008 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C ATTN: PATENT INTAKE CUSTOMER NO. 30623 ONE FINANCIAL CENTER BOSTON, MA 02111			EXAMINER SCHNIZER, RICHARD A	
			ART UNIT	PAPER NUMBER
			1635	
			MAIL DATE	DELIVERY MODE
			07/01/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Notice of Non-Compliant  
Amendment (37 CFR 1.121)***

**Application No.**

10/829,504

**Applicant(s)**

EPSTEIN ET AL.

**Examiner**

Richard Schnizer, Ph. D.

**Art Unit**

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 17 April 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: The amendment filed 4/17/2008 does not comply with 37 CFR 1.121 because the claims appear to have incorrect status identifiers. Claims 9, 12, and 61-63 are listed as "withdrawn", however, these claims are part of the elected invention, and the Examiner is aware of no mechanism by which Applicant can withdraw elected claims. If Applicant does not wish these claims to be considered, then the claims should be canceled. Note that the Examiner previously assented to the withdrawal of claims 4-6 from the elected invention (see Office Action of 3/16/07). After further consideration, it is found that such withdrawal is improper because the claims were part of the elected invention and that Applicant should list these claims as "canceled" and not withdrawn. See 37 CFR 1.121 and 37 CFR 1.111.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
- \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

#### TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
- Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Richard Schnizer, Ph. D./ Patent Examiner

Legal Instruments Examiner (LIE), if applicable

Telephone No.

**Notice of Non-Compliant Amendment (37 CFR 1.121)**